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**(2002) 11 JH CK 0002**  
**In the Jharkhand High Court**  
**Case No : C.R. No. 392 of 2002**

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|---------------------------------------|------------|
| Lakhan Chandra Paramanik and Others   | APPELLANT  |
| Vs                                    |            |
| Bihar State Housing Board and Another | RESPONDENT |

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**Date of Decision :** 21-11-2002

**Acts Referred:**

Limitation Act, 1963 — Section 5

**Citation :** (2003) 1 CCC 180

**Hon'ble Judges :** M.Y. Eqbal, J

**Bench :** Single Bench

**Advocate :** M.M. Banerjee and A. Sen, for the Appellant; I. Sen Choudhary, for the Respondent

**Final Decision :** Allowed

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## Judgement

M.Y. Eqbal, J.—Heard Mr. A. Sen, learned counsel for the petitioner and Mrs. I. Sen Choudhary, learned counsel for the Opposite Parties and with their consent, this revision application is disposed of at the admission stage.

2. This revision application is directed against the order dated 27.8.2002 passed by the District Judge, Dhanbad in Misc. Appeal No. 68/2001 by which he has dismissed the appeal on the ground of limitation.

3. It appears that plaintiff filed Title suit being T.S. No. 94/93 for decree of permanent injunction and for a decree directing the defendants to execute deed of exchange. The suit was valued at Rs. 500/-. Ultimately it was found by the learned Munsif that the value of said property is more than Rs. 60,00,000/- and therefore it is beyond his pecuniary jurisdiction. Consequently, the plaint was ordered to be returned and order was passed for payment of stamp duty. Against the said order petitioner preferred civil revision being C.R. No. 452/2001, which was however, withdrawn with a liberty to the petitioner to take appropriate remedy. The revision application was dismissed as withdrawn in terms of order dated 19.11.2001. Petitioner thereafter filed Misc. Appeal No. 68/2001 on

20.12.2001. Alongwith the memo of appeal, limitation petition was also filed. Learned District Judge refused to condone delay on the ground inter alia that petitioner/appellants did not explain day to day delay. In my opinion, learned District Judge has not correctly appreciated the law. Recently, the Supreme Court in the case of Rain Nath Sao @ Ram Nath Sahu and Ors. v. Gobardhan Sao and Ors.. (2002) 2 SC 143, after taking into consideration the earlier decision Rama Ravalu Gavade Vs. Sataba Gavadu Gavade (Dead) through Lrs. and Another, and N. Balakrishnan Vs. M. Krishnamurthy, has held that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. Sufficient cause u/s 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.

4. Taking into consideration all these facts. I am of the opinion that the Court below is not justified in refusing to condone the delay. Hence the impugned order can not be sustained in law. This revision application is allowed and the impugned order passed by the District Judge. Dhanbad is set aside. Consequently, the limitation petition is allowed and the delay in preferring appeal is condoned. The Court below is directed to decide the appeal on merit.